



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1743

Introduced 2/23/2007, by Rep. Cynthia Soto

SYNOPSIS AS INTRODUCED:

775 ILCS 5/2-102

from Ch. 68, par. 2-102

Amends the Illinois Human Rights Act. Provides that it is a civil rights violation for an employer, based on the receipt of information from the Social Security Administration or from any other government agency that an employee's name and Social Security number do not correspond, to require that employee to reverify work authorization documents, to inquire as to that employee's work authorization, or to otherwise take any adverse action against that employee, unless the Attorney General of the United States issues final regulations to the contrary. Provides that it is also a civil rights violation for any employer, any agent of any employer, any employment agency, or any other entity to use the Basic Pilot program for Employment Eligibility Confirmation to conduct certain employment verification or reverification or to take certain adverse actions against the employee.

LRB095 05116 RLC 25186 b

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Human Rights Act is amended by
5 changing Section 2-102 as follows:

6 (775 ILCS 5/2-102) (from Ch. 68, par. 2-102)

7 Sec. 2-102. Civil Rights Violations - Employment. It is a
8 civil rights violation:

9 (A) Employers. For any employer to refuse to hire, to
10 segregate, or to act with respect to recruitment, hiring,
11 promotion, renewal of employment, selection for training or
12 apprenticeship, discharge, discipline, tenure or terms,
13 privileges or conditions of employment on the basis of unlawful
14 discrimination or citizenship status.

15 (A-5) Language. For an employer to impose a restriction
16 that has the effect of prohibiting a language from being spoken
17 by an employee in communications that are unrelated to the
18 employee's duties.

19 For the purposes of this subdivision (A-5), "language"
20 means a person's native tongue, such as Polish, Spanish, or
21 Chinese. "Language" does not include such things as slang,
22 jargon, profanity, or vulgarity.

23 (B) Employment Agency. For any employment agency to fail or

1 refuse to classify properly, accept applications and register
2 for employment referral or apprenticeship referral, refer for
3 employment, or refer for apprenticeship on the basis of
4 unlawful discrimination or citizenship status or to accept from
5 any person any job order, requisition or request for referral
6 of applicants for employment or apprenticeship which makes or
7 has the effect of making unlawful discrimination or
8 discrimination on the basis of citizenship status a condition
9 of referral.

10 (C) Labor Organization. For any labor organization to
11 limit, segregate or classify its membership, or to limit
12 employment opportunities, selection and training for
13 apprenticeship in any trade or craft, or otherwise to take, or
14 fail to take, any action which affects adversely any person's
15 status as an employee or as an applicant for employment or as
16 an apprentice, or as an applicant for apprenticeships, or
17 wages, tenure, hours of employment or apprenticeship
18 conditions on the basis of unlawful discrimination or
19 citizenship status.

20 (D) Sexual Harassment. For any employer, employee, agent of
21 any employer, employment agency or labor organization to engage
22 in sexual harassment; provided, that an employer shall be
23 responsible for sexual harassment of the employer's employees
24 by nonemployees or nonmanagerial and nonsupervisory employees
25 only if the employer becomes aware of the conduct and fails to
26 take reasonable corrective measures.

1 (E) Public Employers. For any public employer to refuse to
2 permit a public employee under its jurisdiction who takes time
3 off from work in order to practice his or her religious beliefs
4 to engage in work, during hours other than such employee's
5 regular working hours, consistent with the operational needs of
6 the employer and in order to compensate for work time lost for
7 such religious reasons. Any employee who elects such deferred
8 work shall be compensated at the wage rate which he or she
9 would have earned during the originally scheduled work period.
10 The employer may require that an employee who plans to take
11 time off from work in order to practice his or her religious
12 beliefs provide the employer with a notice of his or her
13 intention to be absent from work not exceeding 5 days prior to
14 the date of absence.

15 (F) Training and Apprenticeship Programs. For any
16 employer, employment agency or labor organization to
17 discriminate against a person on the basis of age in the
18 selection, referral for or conduct of apprenticeship or
19 training programs.

20 (G) Immigration-Related Practices.

21 (1) For an employer to request for purposes of
22 satisfying the requirements of Section 1324a(b) of Title 8
23 of the United States Code, as now or hereafter amended,
24 more or different documents than are required under such
25 Section or to refuse to honor documents tendered that on
26 their face reasonably appear to be genuine; or ~~or~~

1 (2) For an employer, based on the receipt of
2 information from the Social Security Administration or
3 from any other government agency that an employee's name
4 and Social Security number do not correspond, to require
5 that employee to reverify work authorization documents, to
6 inquire as to that employee's work authorization, or to
7 otherwise take any adverse action against that employee,
8 unless the Attorney General of the United States issues
9 final regulations to the contrary pursuant to 8 U.S.C.
10 1324a(b) (1) (E); or

11 (3) For any employer, any agent of any employer, any
12 employment agency, or any other entity to use the Basic
13 Pilot program, as authorized by 8 U.S.C. 1324a, Notes,
14 Pilot Programs for Employment Eligibility Confirmation
15 (enacted by PL 104-208, div. C, title IV, subtitle A):

16 (a) to conduct employment verification prior to an
17 offer of employment and before completion of the I-9
18 form;

19 (b) to reverify the employment authorization of
20 current employees (including previous employees who
21 have been rehired) beyond the first 3 days of their
22 initial hire and after they have satisfied the I-9
23 process set forth in INA Section 274A(b) (1) through
24 (3), unless otherwise required under federal law;

25 (c) to reverify employees initially hired before
26 the date the employer enters into a Memorandum of

1 Understanding (MOU) with the Social Security
2 Administration or the Department of Homeland Security,
3 unless otherwise required under federal law;

4 (d) to deny certain employment benefits or
5 otherwise interfere with its employees' labor rights,
6 or to engage in any other unlawful employment practice;

7 (e) to take adverse action against any person,
8 including, but not limited to, terminating or
9 suspending an employee who has received a tentative
10 nonconfirmation;

11 (f) to selectively exclude certain individuals
12 from consideration for employment as a result of a
13 perceived likelihood that additional verification will
14 be required, beyond what is required for most job
15 applicants; or

16 (g) for third-party use by individuals or
17 companies who conduct identity verification,
18 background checks, or other related services for
19 employers or other parties.

20 It is not a civil rights violation for an employer to take
21 any action that is required by Section 1324a of Title 8 of the
22 United States Code, as now or hereafter amended.

23 (Source: P.A. 93-217, eff. 1-1-04.)

24 Section 97. Severability. The provisions of this Act are
25 severable under Section 1.31 of the Statute on Statutes.